admission to the defendant's public seashore bathhouse. A dispute arose between the plaintiff and one of the defendant's servants, as a result of which the plaintiff was ejected from the premises. The plaintiff brought an action for breach of contract. *Held*, that the plaintiff may recover damages for the indignity as well as the price of the ticket. *Aaron* v. *Ward*, 46 N. Y. L. J. 963 (N. Y., Ct. App., Nov. 21, 1911).

Proprietors of bathhouses, as of other places of public resort, may be forbidden by statute to refuse admittance to any citizen properly applying. *Cf. Greeneberg* v. *Western Turf Association*, 140 Cal. 357, 73 Pac. 1050; *People* v. *King*, 110 N. Y. 418, 18 N. E. 245. But aside from statutory regulations the proprietor may serve whom he pleases. *People ex rel. Burnham* v. *Flynn*, 189 N. Y. 180, 82 N. E. 169. Though by selling a ticket the proprietor contracts to give the purchaser a license to enter his premises, he has the power to break the contract and revoke the license. *Wood* v. *Leadbitter*, 13 M. & W. 838; *Horney* v. *Nixon*, 213 Pa. St. 20, 61 Atl. 1088. Thereafter the ticket-holder enters or continues on the premises as a trespasser, and cannot maintain an action for assault if he is ejected with reasonable force. *McCrea* v. *Marsh*, 12 Gray (Mass.) 211; *Burton* v. *Scherpf*, 83 Mass. 133. But an action for breach of contract lies. *Taylor* v. *Cohn*, 47 Or. 538, 84 Pac. 388. Compensatory damages for breach of contract will not usually include a recovery for mental distress. *Hamlin* v. *Great Northern Ry. Co.*, 1 H. & N. 408; *Connell* v. *Western Union Tel. Co.*, 116 Mo. 34, 22 S. W. 345. But when from the nature of the contract it can be foreseen that great mental anguish will result from the breach, for which a recovery of the consideration paid is utterly inadequate compensation, such suffering should be considered in estimating damages. *Renihan* v. *Wright*, 125 Ind. 536, 25 N. E. 822. On the same theory the principal decision is to be commended. *Smith* v. *Leo*, 92 Hun (N. Y.) 242, 36 N. Y. Supp. 949. *Contra, Buenzle* v. *Newport Amusement Association*, 29 R. I. 23, 68 Atl. 121. See 21 HARV. L. REV. 541.

EMINENT DOMAIN — COMPENSATION — COSTS. — A statute provided that "costs shall not be taxed to any party" by the court of claims. Condemnation proceedings were brought in this court. Another statute provided that "costs, where not specially regulated, may be awarded." *Held*, that costs may be allowed the owner of the property. *Brainerd* v. *State*, 131 N. Y. Supp. 221 (Ct. of Claims).

With rare exceptions the decisions have avoided holding that the constitutional requirement of "compensation" to the owner of property taken under eminent domain assures to him the allowance of costs in condemnation proceedings. In some, the constitutional provision merely fortifies an otherwise reasonable construction of a statute for the allowance of such costs. *City and County of San Francisco* v. *Collins*, 98 Cal. 259, 33 Pac. 56. In others, it has induced courts, in order to achieve a similar result, to give statutes a strained construction. *Stolze* v. *Milwaukee, etc. R. Co.*, 113 Wis. 44, 88 N. W. 919. A statutory repetition of the constitutional provision has been held to provide for the allowance of costs. *Land and Canal Co.* v. *Hartman*, 17 Colo. 138, 29 Pac. 378. But the great weight of authority refuses to allow costs in the absence of statute. *Gifford* v. *Dartmouth*, 129 Mass. 135; *Matter of Board of Rapid Transit Railroad Commissioners*, 197 N. Y. 81, 90 N. E. 456. *Contra, Petersburg School District* v. *Peterson*, 14 N. D. 344, 103 N. W. 756. Costs of an appeal unsuccessfully taken by the owner can even be taxed against him. *Matter of Village of Theresa*, 121 N. Y. App. Div. 119, 105 N. Y. Supp. 568; *Kitsap County* v. *Melker*, 52 Wash. 49, 100 Pac. 150. But it is unconstitutional to tax against the owner the costs of an appeal successfully brought by the condemning party. *Matter of New York, etc. Ry. Co.*, 94 N. Y. 287; *Grays Harbor Boom Co.* v. *Lownsdale*, 54 Wash. 83, 104 Pac. 267. *Contra, Metler* v. *Easton*

*and Amboy R. Co.*, 37 N. J. L. 222. It has been held, though this is opposed to the weight of authority, that even the costs of the original proceeding are taxable against the owner. *Rogers* v. *City of St. Charles*, 54 Mo. 229. *Contra*, *Adams County* v. *Dobschlag*, 19 Wash. 356, 53 Pac. 339.

EMINENT DOMAIN — COMPENSATION — WATERWAY CONSTRUCTED BY CITY THROUGH RAILWAY'S RIGHT OF WAY NECESSITATING STRUCTURAL CHANGES. — A city constructed a canal, with walks on either side, through the right of way of a railroad, in order to join certain lakes, used principally for pleasure by its inhabitants. This made it necessary for the railroad to build a bridge. *Held*, that the railroad is not entitled to recover from the city the cost of building the bridge. *Chicago, M. & St. P. Ry. Co.* v. *City of Minneapolis*, 133 N. W. 169 (Minn.).

The authorities are not harmonious in allowing compensation in such cases. This is because judges have not always been mindful of the distinction between eminent domain and the police power. See 3 HARV. L. REV. 189; 22 *id.* 542. The former is resorted to where private property is taken for a public use; the latter where the sovereign restricts, regulates, or destroys private property in the public interest. See 1 LEWIS, EMINENT DOMAIN, §§ 3, 6, 7. In the latter case there need be no compensation. *Philadelphia* v. *Scott*, 81 Pa. St. 80. In certain border-line cases the two powers so shade into each other that it becomes difficult to say whether there is a duty to make compensation. See *Philadelphia* v. *Scott*, *supra*, 86. However, in the principal case the erection of the bridge was made necessary by the exercise of the right of eminent domain. It is damage proximately consequent. The police power was not properly invoked. Where no special statutory provisions exist, as in the principal case, the rule is to give the value of the land taken and the cost of structural changes made necessary. *Paterson, etc. R. Co.* v. *Nutley*, 72 N. J. L. 123, 59 Atl. 1032; *Cincinnati, etc. Ry. Co.* v. *Troy*, 68 Oh. St. 510, 67 N. E. 1051. See 2 LEWIS, EMINENT DOMAIN, § 733. But *cf. C., I. & W. Ry. Co.* v. *City of Connersville*, 218 U. S. 336, 31 Sup. Ct. 93. But there is considerable diversity among the statutory provisions on the subject. See 2 LEWIS, EMINENT DOMAIN, §§ 733 *et seq.*

EMINENT DOMAIN — COMPENSATION — WHAT CONSTITUTES AN ENTIRE TRACT. — The plaintiff owned a block of land on B. Street south of A. Street, and also the fee of B. Street, subject to a public easement. The defendant railway company, owning land on both sides of B. Street north of A. Street, built a bridge for trains, with the consent of the city authorities, across A. Street from one portion of its land to the other. *Held*, that the plaintiff can recover merely nominal damages for the injury done to his fee of the street and not consequential damages for the injury to his lot. *Coatsworth* v. *Lehigh Valley Ry. Co.*, 131 N. Y. Supp. 300 (Sup. Ct.).

It is well established that where part of a parcel of land is taken under eminent domain, just compensation includes damages to the residue as well as the value of the portion taken. *South Buffalo Ry. Co.* v. *Kirkover*, 176 N. Y. 301, 68 N. E. 366; *Richardson* v. *City of Centerville*, 137 Ia. 353, 114 N. W. 1071. What constitutes a "parcel" in this sense has been the subject of much litigation. See 2 LEWIS, EMINENT DOMAIN, 3 ed., §§ 698–701. If the residue was more valuable in connection with the land taken than it is as a separate lot, justice clearly requires that the owner be compensated for the decrease in value. That being the reason of the rule, in order to fall within it, the two lots, it is generally held, must be used as one property or be adapted to such use. *Hoyt* v. *Chicago, etc. Ry. Co.*, 117 Ia. 296, 90 N. W. 724; *Frick Coke Co.* v. *Painter*, 198 Pa. St. 468, 48 Atl. 302. Thus, if a man having two contiguous farms occupies one and rents the other, he cannot collect for damages to both, if a